

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

JANE DOE,

Plaintiff,

v.

SPILLMAN RANCH HOMES LP and
NRP GROUP,

Defendants.

§
§
§
§
§
§
§
§
§
§

1:23-CV-1525-DII

ORDER

Before the Court is the report and recommendation from United States Magistrate Judge Dustin Howell concerning Plaintiff Jane Doe’s (“Plaintiff”) Complaint pursuant to 28 U.S.C. § 1915(e), (Dkt. 1). (R. & R., Dkt. 12). Pursuant to 28 U.S.C. § 636(b) and Rule 1(d) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas, Judge Howell issued his report and recommendation on April 29, 2024. (*Id.*). Plaintiff timely filed objections to the report and recommendation on May 13, 2024. (Objs., Dkt. 13). A party may serve and file specific, written objections to a magistrate judge’s findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure *de novo* review by the district court. 28 U.S.C. § 636(b)(1)(C). Because Plaintiff timely objected to the report and recommendation, the Court reviews the report and recommendation *de novo*.

Plaintiff filed her complaint on December 15, 2023, bringing claims against two defendants: Spillman Ranch Homes LP and NRP Group (collectively, “Defendants”). (Compl., Dkt. 1). On the same day that she filed her complaint, she also moved to proceed *in forma pauperis*. (Mot., Dkt. 2). By standing order, this case was referred to Judge Howell to review Plaintiff’s motion to proceed *in forma pauperis* and to review her complaint under 28 U.S.C. § 1915(e). (Dkt. 3). On February 27, 2024, Judge Howell issued an order granting Plaintiff’s request to proceed *in forma pauperis*. (Order,

Dkt. 5). Judge Howell also found that Plaintiff's case should not be dismissed under § 1915(e)(2) as frivolous. Accordingly, Judge Howell ordered the Clerk of the Court to issue summons and the United States Marshal to commence service of process on Defendants. However, because Plaintiff had not provided Defendants' addresses, Judge Howell ordered Plaintiff to provide the Court with Defendants' addresses by March 31, 2024. Judge Howell warned that failure to provide the addresses by this date would result in the dismissal of this case. (*Id.*).

On March 12, 2024, the Court issued a summons to Plaintiff as to Spillman Ranch Homes LP, which was returned executed. (Dkts. 8, 9). Spillman Ranch Homes LP then filed its answer a month later. (Dkt. 11). However, as of the end of April, Plaintiff had not provided NRP Group's address. Accordingly, on April 29, 2024, Judge Howell issued a report and recommendation in which he recommended that this Court dismiss NRP Group as a defendant in this case because Plaintiff had failed to comply with the Court's order to provide NRP Group's address. (R. & R., Dkt. 12). On May 13, 2024, Plaintiff filed objections in which she alleged that she never received Judge Howell's February 27 order or the April 29 report and recommendation. (Objs., Dkt. 13). She then provided the Court with the name of NRP Group's registered agent and the registered agent's address. (*Id.* at 2).

Because Plaintiff has now provided an address for Defendant NRP Group, the Court will overrule the report and recommendation and allow Plaintiff's claims against NRP Group to proceed. However, the Court warns Plaintiff that it is her responsibility to keep the Court apprised of her mailing address so she can timely receive and respond to Court orders. The Court also warns Plaintiff that failure to comply with Court orders in the future may result in the dismissal of her case. *See* Fed. R. Civ. P. 41(b) (permitting a court to dismiss an action if the plaintiff "fails to prosecute or to comply with . . . a court order").

Accordingly, the Court **ORDERS** that the Report and Recommendation of the United States Magistrate Judge, (Dkt. 12), is **OVERRULED**.

IT IS FURTHER ORDERED that the Clerk of the Court shall issue summons as to Defendant NRP Group, LLC through its registered agent CT Corporation System at the following address: 4400 Easton Commons Way, Suite 125 Columbus, Ohio 43219. The United States Marshal is then **ORDERED** to commence service of process on the NRP Group, LLC under Rules 4 and 5 of the Federal Rules of Civil Procedure.

IT IS FINALLY ORDERED that the Clerk's Office mail a copy of this Order to Plaintiff via certified mail.

SIGNED on May 15, 2024.

A handwritten signature in blue ink, appearing to read 'R. Pitman', is written over a horizontal line.

ROBERT PITMAN
UNITED STATES DISTRICT JUDGE